

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6644 of 1988

Date of decision: 20-6-97

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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MAHESH F LODHA

Versus

MANAGING DIRECTOR  
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Appearance:

MR MR ANAND for Petitioner

None present for the petitioner.  
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CORAM : MR.JUSTICE S.K.KESHOTE

Date of Order: 20/06/97

ORAL JUDGMENT

Heard the learned counsel for the petitioner, and perused the special civil application. Challenge is made by the petitioner to the order of respondent dated 19th September 1988 under which his services were terminated. It is not in dispute that the petitioner was on probation and under order dated 19th September, 1988 his services were terminated as probationer. The counsel for the petitioner contended that juniors were retained in service though their work was also not satisfactory, whereas senior's service has been terminated. It has next been contended that the order of termination of service of the petitioner, though comes out innocuous, it is stigmatic. In this regard reference has been made to the reply file by the respondents. Lastly contention is raised that before passing this order the petitioner has not been given notice or opportunity of hearing.

2. None of the contentions raised by the learned counsel for the petitioner has any substance. In para 3 of the petition, the petitioner stated that Amrutbhai D. Solanki and Smt. Naina P. Raval, appointed as clerk-cum-typists on probation were junior to the petitioner. It has further been submitted that performance of these aforesaid probationers were not as good as that of the petitioner, but they have been retained in service, and even confirmed, whereas the service of the petitioner were terminated. The averments made aforesaid by the petitioner are of no help to the petitioner in the matter. It is difficult to believe that the petitioner could have known about the performance of those two persons. The petitioner has not disclosed any source or produced any other material in support of his averments that the performance of those two probationers was not as good as that of the petitioner. The affidavit which has been filed in support of these averments states that aforesaid averments are true to the best of knowledge, information and belief of the petitioner. But the petitioner is not clear in his affidavit whether these facts are true to his knowledge or information or belief. It is nothing but only assessment of his own and those of other persons by himself, who is otherwise having no control on those persons to make assessment of these facts. The discrimination alleged by the petitioner on this ground cannot be accepted.

3. So far as the second contention is concerned, the respondent stated in the reply that the typing work of the petitioner and his English language was very poor and

it was not possible for him to type correctly. His work was stated to be unsatisfactory. The counsel for the petitioner put insistence on the word that the work was reported to be irregular which constitutes stigma. After going through the contents of the reply I do not find anything herein to say that any stigma has been casted. It is a case where the work of the petitioner was unsatisfactory and as such he was not confirmed. The petitioner has not come up with any case of mala fides. From the affidavit which has been filed by Mr. Vadilal K. Sheth, dated 6th May, 1996 it is clear that the petitioner has been given sufficient opportunity to improve his working, but he has not availed of the same.

4. The last contention of the counsel for the petitioner is equally of no merit. Before terminating the services of the petitioner who was on probation, no notice was required to be given. Notice would have been required only in case his services were sought to be terminated on the ground of misconduct which is not the case here.

5. In the result this special civil application fails and the same is dismissed. Rule discharged, with no order as to costs.

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